

I. INTRODUCTION

A. Purpose

The Kentucky General Assembly passed a law in 1960 creating a merit system for Kentucky state government employees. This law (KRS, Chapter 18A), in part, prescribes a method which allows applicants seeking state employment to compete for consideration for employment on the basis of qualifications, without discrimination or bias regarding sex, race, disability, religion, national origin, political affiliation or age. The merit system was created in order to assure that state employees are competent, well qualified employees and to insure continuity in the provision of government services by retaining experienced employees from one administration to the next.

II. EMPLOYEE STATUS

A. Classified Service.

The vast majority of state employees who work in the Executive branch of state government are in the "classified service". These employees are covered by merit system law. After serving an "initial" probationary period, an employee gains merit system "status", which affords the employee certain protections and rights, including the right to file an appeal with the Personnel Board. These appeal rights are included in KRS 18A.095. Employees are advised that a complete copy of KRS Chapter 18A is maintained in the agency personnel office and is available for review anytime during normal working hours.

B. Unclassified Service.

Employment exempted from the classified service is known as the unclassified service. In addition to employees within the Legislative and Judicial branches of government, the unclassified service includes Cabinet Secretaries, Commissioners, seasonal employees, temporary employees, emergency employees and other persons and/or unclassified positions listed under KRS 18A.115.

C. Personnel Form P-1.

Your official employment standing with the state is documented on Personnel Form P-1. When you are hired, a P-1 form is sent by this department to the Personnel Cabinet where it is reviewed, approved or disapproved, and if approved placed in your permanent

employment file in the Personnel Cabinet. Copies are returned to this department where a copy is included in your agency employment file and a copy is given to you for your records. All future status changes that affect your work station assignment, job classification, rate of pay and a number of other factors must be documented on new P-1's. Until the agency's requested action on your employment is approved by the Secretary of the Personnel Cabinet, it has no official standing.

III. PROBATIONARY PERIODS

A. KRS 18A.005 (16).

"Initial probation" means the period of service following initial appointment to any position under KRS 18A.010 to 18A.200 which requires special observation and evaluation of an employee's work and which must be passed successfully before status may be conferred as provided in KRS 18A.110 and by the provisions of this chapter. If the appointee is granted leave in excess of twenty (20) consecutive work days during this period, his initial probation shall be extended for the same length of time as the granted leave to cover such absence. "Initial probation" does not include a probationary period served by a laid-off employee who accepts a bona fide written offer of appointment.

B. KRS 18A.005 (20).

"Promotional probation" means the six (6) month period of service following the promotion of an employee with status which must be successfully completed in order for the employee to retain the position to which he has been promoted. If the employee is granted leave in excess of twenty (20) consecutive work days during this period, his promotional probation shall be extended for the same length of time as the granted leave to cover such absence.

C. KRS 18A.111 Probationary periods for classified service -- Initial and promotional.

(1) Except when appointed to a job classification with an initial probationary period in excess of six (6) months, and except as provided in KRS 18A.005, an employee shall serve a six (6) months probationary period when he is initially appointed to the classified service. An employee may be separated from his position, reduced in class or rank, or replaced on the eligible list during this initial probationary period and shall not have a right to appeal, except as provided by KRS 18A.095. If the employee is separated from his position, he shall be notified in writing at least ten (10) working days prior to separation. A copy of the notification shall be forwarded to the commissioner. The employee shall be placed on an eligible list but shall not be certified to the agency from which he was separated unless that agency so requests. Unless the appointing authority notifies the employee prior to the end of the initial probationary period that he is separated, the employee shall be deemed to have served satisfactorily and shall acquire status in the classified service.

- (2) An employee who satisfactorily completes the initial probationary period for the position to which he was initially appointed to the classified service shall be granted status and may not be demoted, disciplined, dismissed, or otherwise penalized, except as provided by the provisions of this chapter.
- (3) An employee ordered reinstated by the board shall not be required to serve a probationary period unless the board rules otherwise, as provided in KRS 18A.095.
- (4) An employee with status, who has been promoted, shall serve a promotional probationary period of six (6) months, except for those employees granted leave in excess of twenty (20) consecutive work days during this period. Such probationary periods shall be extended as prescribed in KRS 18A.005. During this period, he shall retain the rights and privileges granted by the provisions of this chapter to status employees.
- (5) An employee with status may request that he be reverted to a position in his former class at any time during the promotional probationary period.
- (6) A laid-off employee who accepts a bona fide written offer of appointment to a position shall not be required to serve an initial probationary period. Such an employee shall serve a promotional probationary period. He shall be an employee with status and shall have all rights and privileges granted employees with status under the provisions of this chapter.

IV. CAREER EMPLOYEE

- A. KRS 18A.005 (4): "Career employee" shall mean a state employee with sixteen (16) or more years of permanent full-time state service, or the part-time employment equivalent of at least sixteen (16) years of full-time state service. The service may have been in the classified service, the unclassified service, or a combination thereof.
- B. KRS 18A.115 (4): Employment exempted from classified service -- Reversion rights of career employees promoted outside classified service. Career employees within the classified service promoted to positions exempted from classified service shall, upon termination of their employment in the exempted service, revert to a position in that class in the agency from which they were terminated if a vacancy in that class exists. If no such vacancy exists, they shall be considered for employment in any vacant position for which they were qualified pursuant to KRS 18A.130 and 18A.135.
- C. 101 KAR 2:036 Section 3 (6) (b): Reversion. An employee who is reverted to a position in the classified service from a position in the unclassified service shall have his salary changed to the rate received at the time he left the classified service and is entitled to all salary advancements and adjustments he would have received had he not left the classified service.

D. 101 KAR 3:050 Section 1 (2): Unclassified service; Promotion. Any career employee promoted from a classified to an unclassified position retains his status in the classified service. On separation from the unclassified service, he reverts to a position in that class in which he had status in the agency from which he was terminated if a vacancy in that class exists. If no such vacancy exists in a position of the former class, the statutes (KRS 18A.113 and 18A.1132) pertaining to layoff shall apply. He shall be considered for employment in any vacant position for which he is qualified pursuant to KRS 18A.130 and 18A.135.

E. KRS 18A.130: Reemployment of career employee terminated on or after January 1, 1980.

- (1) A career employee whose employment is terminated on or after January 1, 1980, by layoff, dismissal, other than for cause, and, in the case of an unclassified management employee, resignation other than resignation in lieu of dismissal for cause, shall, upon his written request, be reemployed or placed on reemployment lists in accordance with this section and KRS 18A.135.
- (2) If the career employee has previously attained status in a position in the classified service, he shall revert to a position in that class in the agency from which he was terminated if a vacancy in that class exists. If no such vacancy exists, he shall be considered for employment in any vacant position for which he is qualified pursuant to the reemployment procedures.
- (3) If the career employee has not previously attained status in the classified service or if he has attained status but no vacancy exists in a position to which subsection (2) of this section applies, the employee shall be placed on reemployment lists for any positions for which he is qualified.

F. KRS 18A.135: Reemployment of career employees.

- (1) Any career employee who has been laid off or dismissed, other than for cause, and in the case of an unclassified management employee, resignation other than resignation in lieu of dismissal for cause, shall automatically be placed on the reemployment list for the class from which he was terminated. If a career employee wishes to be on the reemployment list for other classes of positions for which he is qualified and passes the appropriate selection method, he shall notify the department in writing.
- (2) If more than one (1) career employee requests to be placed on the reemployment list for any job classification, the department shall list the names of such career employees in the order of their seniority.
- (3) No vacancy may be filled from a competitive register until all career employees on the reemployment list for that class of position have denied employment in that class. An appointing authority may refuse to reemploy a qualified employee on the

reemployment list only for cause. The commissioner and the employee shall be furnished with a written statement the specific reasons for the refusal within ten (10) days following the appointing authority's refusal. The employee may appeal the appointing authority's action in accordance with KRS 18A.095 and 18A.100.